



36. The Examiner has erroneously cited column 5 in the Office Action). Again, the Examiner has misinterpreted the reference. Klabunde teaches that the carbon coated nanoparticles may be used to absorb biocides at the noted temperature range. This teaching has no relation to any actual synthesis of nanoparticles.

Lastly, the Examiner has incorrectly cited column 6, Example 2, in support of an alleged teaching of metal salt solutions as the same as the claimed invention. In fact, Example 2 teaches the use of various solvents at supercritical conditions to manufacture nanocrystals in an entirely different process as compared to the claimed invention.

The Examiner states that one skilled in the art would have known to select for varied ambient temperatures and to select heavy metal salts. However, applicants submit that mere awareness in the art is not sufficient to establish obviousness. *See In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001) (Deficiencies of references cannot be saved by appeals to “common sense” and basic knowledge” without any evidentiary support); *see also Micro Chem., Inc. v. Great Plains Chem. Co., Inc.*, 103 F.3d 1538, 41 USPQ2d 1238 (Fed. Cir. 1997) *cert denied*, 521 U.S. 1122, 1244 (1997) (“A determination of obviousness must involve more than indiscriminately combining prior art; a motivation or suggestion to combine must exist.”). Rather, obviousness can only be established where there is some teaching, suggestion or motivation in the prior art that would have led a person of ordinary skill to modify the references. *See In re Napier*, 55 F.3d 610, 613, 34 USPQ2d 1782, 1784 (Fed. Cir. 1995); *see also In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Accordingly, applicant submits that Klabunde fails to teach or provide motivation to manufacture a nanoparticle using fungus as a source material in a metal salt solution to create a biomass with subsequent filtering. One skilled in the art would not be able to arrive at the claimed invention based on the teaching in Klabunde. Therefore, Applicants submit that the claimed invention is not obvious over the prior art and respectfully request that the rejection be withdrawn.

In view of the above amendments and remarks, the claims now presented are believed to in condition for allowance and such action is earnestly solicited. If there are any other

